

By: Geren, Murr, A. Johnson of Harris,  
et al.

H.B. No. 789

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for the criminal offense of tampering  
with or fabricating physical evidence.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 37.09, Penal Code, is amended by  
amending Subsections (c) and (c-1) and adding Subsection (c-2) to  
read as follows:

(c) An offense under Subsection (a) or Subsection (d)(1) is  
a felony of the third degree, except that the offense is:

(1) a felony of the second degree if ~~[unless]~~ the thing  
altered, destroyed, or concealed is a human corpse; and

(2) a Class A misdemeanor if the thing altered,  
destroyed, or concealed could be used as evidence in the  
investigation only of or an official proceeding related to only an  
offense punishable as a misdemeanor ~~[, in which case the offense is a  
felony of the second degree].~~

(c-1) An offense under Subsection (d)(2) is a Class A  
misdemeanor.

(c-2) ~~[(c-1)]~~ It is a defense to prosecution under  
Subsection (a) or (d)(1) that the record, document, or thing was  
visual material prohibited under Section 43.261 that was destroyed  
as described by Subsection (f)(3) ~~[(f)(3)(B)]~~ of that section.

SECTION 2. The change in law made by this Act applies only  
to an offense committed on or after the effective date of this Act.

1 An offense committed before the effective date of this Act is  
2 governed by the law in effect on the date the offense was committed,  
3 and the former law is continued in effect for that purpose. For  
4 purposes of this section, an offense was committed before the  
5 effective date of this Act if any element of the offense occurred  
6 before that date.

7 SECTION 3. This Act takes effect September 1, 2021.